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Federal Communications Commission

DA 01-2962

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Before the  
Federal Communications Commission  
Washington, DC 20554

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In the Matter of )  
 )  
Request for Review of the Decision of the )  
Universal Service Administrator by )  
 )  
Parrottsville Community Library ) File No. SLD-207843  
Parrottsville, Tennessee )  
 )  
Federal-State Joint Board on ) CC Docket No. 96-45 ✓  
Universal Service )  
 )  
Changes to the Board of Directors of the ) CC Docket No. 97-21  
National Exchange Carrier Association, Inc. )

### ORDER

Adopted: December 19, 2001

Released: December 20, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Parrottsville Community Library (Parrottsville), Parrottsville, Tennessee.<sup>1</sup> Parrottsville seeks a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.<sup>2</sup> For the reasons set forth below, we deny Parrottsville's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.<sup>4</sup> Once the applicant has

<sup>1</sup> Letter from Judy Myers, Parrottsville Community Library, Parrottsville, Tennessee, to Federal Communications Commission, filed June 16, 2000 (Waiver Request).

<sup>2</sup> *Id.*

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>4</sup> 47 C.F.R. § 54.504 (b)(1), (b)(3).

for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>5</sup>

3. The Commission's rules allow the Administrator to implement an initial filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.<sup>6</sup> Section 54.507(c) of the Commission's rules states that fund discounts will be available on a first-come-first-served basis.<sup>7</sup> Applications that are received outside of this filing window are subject to separate funding priorities under the Commission's rules.<sup>8</sup> It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the close of the filing window. In Funding Year 3, the filing window closed on January 19, 2000.<sup>9</sup>

4. Parrottsville filed its FCC Form 471 on January 24, 2000, after the filing window had closed.<sup>10</sup> By letter dated April 26, 2000, SLD informed Parrottsville that its application did not meet Minimum Processing Standards and could not be processed.<sup>11</sup> SLD explained that, *inter alia*, Parrottsville's application was filed outside of the filing window and the Category of Service (Block 5, Item 11) was not checked in at least one funding request. SLD also stated that the Service Provider Identification Number (Block 5, Item 13) and the Service Provider Name (Block 5, Item 14) were blank, and that Block 5, Item 22 did not correspond with a Worksheet provided to SLD in the application.

5. Parrottsville subsequently filed an appeal with SLD.<sup>12</sup> Parrottsville stated that due to a lengthy illness and the resignation of its former librarian, its application was not filed correctly or in a timely manner. In response, SLD acknowledged its receipt of Parrottsville's appeal and treated it as a request for waiver of the filing window for Funding Year 3.<sup>13</sup> SLD

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<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. § 54.507(c).

<sup>7</sup> *Id.*

<sup>8</sup> 47 C.F.R. § 54.507(g).

<sup>9</sup> See SLD's website, What's New at SLD (November 19, 1999), <http://www.sl.universalservice.org/whatsnew/111999.asp>.

<sup>10</sup> FCC Form 471, Parrottsville Community Library, filed January 24, 2000.

<sup>11</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jettie F. Norris, Parrottsville Community Library, dated April 26, 2000.

<sup>12</sup> Letter from Judy Myers, Parrottsville Community Library, to Schools and Libraries Division, Universal Service Administrative Company, filed May 10, 2000.

<sup>13</sup> Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Judy Myers, Parrottsville Community Library, dated May 16, 2000.

informed Parrottsville, however, that SLD was not permitted to consider Parrottsville's request and instructed Parrottsville to file the instant Waiver Request with the Commission.

6. We have reviewed the record before us and conclude that Parrottsville has not demonstrated a reasonable basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>14</sup> When requesting funds from the schools and libraries universal service support mechanism, the applicant bears the burden of providing complete and accurate information to SLD for processing within the established deadline if the applicant wishes to be considered with other in-window applicants. The particular facts of this case do not rise to the level of special circumstances required for deviation from the general rule. Parrottsville has not shown cause for the incomplete and untimely filing of its application beyond the statement that the librarian was ill for an extended period and subsequently resigned.<sup>15</sup>

7. In light of the thousands of applications that SLD must review and process each funding year, we believe it is administratively necessary to place on the applicant the responsibility of complying with all relevant program rules and procedures.<sup>16</sup> Such rules and procedures include filing deadlines.<sup>17</sup> An applicant must also take responsibility for the actions and omissions of those employees to whom it gives responsibility for submitting timely and complete requests for discounts on its behalf. Accordingly, we believe that waivers of these deadlines should not be routinely granted. For these reasons, we find no basis for waiver of the filing window deadline in these circumstances and, therefore, we deny Parrottsville's Waiver Request.

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<sup>14</sup> 47 C.F.R. § 1.3; see, e.g., *Northeast Cellular Telephone Company v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>15</sup> Waiver Request.

<sup>16</sup> See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association*, File No. SLD-133664, CC Dockets No. 95-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. 2000), at para. 8.

<sup>17</sup> See 47 C.F.R. § 54.507(c); see also *Instructions for Completing the Schools and Libraries Universal Service Description of Services Ordered and Certification Form*, OMB 3060-0806 (September 1999) (Form 471 Instructions), at 4.

8. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Parrottsville Community Library, Parrottsville, Tennessee, June 16, 2000, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark G. Seifert".

Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau